

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

Raymond Joseph Yosuico and
Isabella Adele Yosuico,

Case No: 8:19-bk-06613-MGW
Chapter 7

DEBTOR. /

**CHAPTER 7 TRUSTEE'S APPLICATION
TO RETAIN BK GLOBAL REAL ESTATE SERVICES
AND KELLER WILLIAMS REALTY EASTERN PANHANDLE TO
PROCURE CONSENTED PUBLIC SALE PURSUANT TO 11 U.S.C. §§327, 328 AND 330**

Stephen L. Meininger, as Chapter 7 Trustee (the "Trustee") for the above referenced debtor, by and through the undersigned counsel, files this Application for entry of an order authorizing retention of (1) BK Global Real Estate Services ("BKRES") under the terms set forth in the agreement (the "BKRES Agreement") attached to BKRES' Affidavit of Disinterestedness (the "BKRES Affidavit") and (2) Natalie J. Hoffmann of Keller Williams Realty Eastern Panhandle ("Listing Agent") under the terms of the agreement (the "Listing Agreement") attached to Listing Agent's Affidavit of Disinterestedness at (the "Listing Agent Affidavit"). In support thereof, the Trustee respectfully states as follows:

PRELIMINARY STATEMENT

Trustee requests approval to retain BKRES and Listing Agent, at no cost to the estate, to negotiate with and persuade the first lienholder on certain real property in which the estate has no equity to (1) allow Trustee to sell such property at the highest price that the market will bear, (2) waive the resulting deficiency claim and (3) pay a 11 U.S.C. § 506 surcharge to provide a carveout for the benefit of the estate and pay all other sale expenses, including a 6% brokerage commission that will be shared equally by BKRES and Listing Agent only upon the closing of a sale that is approved by this Court.

BKRES and its affiliates have proprietary technology and a national team of experienced loan servicing specialists, asset managers, negotiators, trustee relation managers, real estate brokers and agents, closing specialists and attorneys with extensive experience in procuring the consent of mortgage lenders and servicers to sell over-encumbered properties and provide significant cash recoveries to selling estates with no equity, through the Consented Sale™ process described herein.

The proposed agreements are attached and provide that BKRES and Listing Agent will not be entitled to any compensation from the estate whatsoever under any circumstances. They will only receive and share a customary brokerage commission that is paid by secured creditor as a 11 U.S.C. § 506 surcharge approved by this Court.

The Trustee (1) believes that hiring BKRES and Listing Agent to pursue a Consented Sale™ will likely result in secured creditor paying a carveout for the benefit of the estate with proceeds from the public sale of an asset in which the estate has no equity and (2) expects to obtain secured creditor's agreement to a Consented Sale™, and bring a separate motion seeking this Court's approval of the procedures, terms and conditions by which the over-encumbered property will be sold, within the coming months.

JURISDICTION

This Court has jurisdiction to consider this Application pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A), (M), (N), and (O).

Venue is proper before this Court pursuant to 28 U.S.C. §§1408 and 1409.

BACKGROUND

On July 15, 2019, the Debtor commenced this case by filing a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code.

Thereafter, the Trustee was appointed as the Chapter 7 trustee in this case.

The Trustee held and concluded the 341 meeting on August 15, 2019.

The Debtor is the sole owner of real property located at **1236 Pious Ridge Rd Berkeley Springs, WV 25411** (the “Property”). The Debtor has not claimed the Property as exempt and, upon information and belief, the Property is vacant.

The Debtor has no equity in the Property. The Debtor’s schedules reflect that the Property is currently worth \$182,371.00, but is subject to a first mortgage lien (the “Senior Mortgage”) in favor of Shellpoint Mortgage (the “Secured Creditor”) in an amount exceeding \$130,785.00 and second mortgage lien (the “Junior Mortgage”) in favor of BB&T Mortgage (the “Secured Creditors”) amount exceeding \$29,628.33.

The Trustee, after reviewing certain materials, including (without limitation) the BK Score™¹, sales analysis report and opinion of value for the Property provided by BKRES and Listing Agent, has determined it to be in the best interest of the Debtor’s estate and all creditors to negotiate to obtain Secured Creditors’ agreement and consent (“Consent”) to:

- a. sell the Property to whichever third party Trustee determines to have made the best qualified offer during a public sale approved by the Court;
- b. buy the Property from the Debtor’s estate if (and only if) no such offer is made;
- c. release the Senior Mortgage and otherwise waive all of its claims against the estate with respect to the Property (including any deficiency claims resulting from the proposed sale); and
- d. agree to a 11 U.S.C. § 506 surcharge to pay all of the expenses associated with the proposed sale, including the payment of a 6% real estate brokerage

¹ The BK Score™ is a 100-point rating that is generated by a proprietary algorithm from 10 unique property attributes in order to consistently measure sales confidence and predict market value.

commission to BKRES and Listing Agent and reimbursement of their out-of-pocket expenses, and provide a carveout for the benefit of allowed unsecured creditors of the Debtor's estate.

Trustee expects BKRES and Listing Agent to obtain Secured Creditors' Consent and bring a separate motion seeking an order approving the sale of the Property (the "Motion to Approve Sale") within several months of the entry of the order sought by this Application.

By this Application, the Trustee requests authority pursuant to Sections 327, 328(a) and 330 of the Bankruptcy Code to (a) retain BKRES and Listing Agent to procure Secured Creditors' Consent, and (b) approve Secured Creditor's payment of the fees described below directly to BKRES and Listing Agent at closing of the sale of the Property, if and when the Consent and Motion to Approve Sale are granted.

APPLICATION

Section 328(a) of the Bankruptcy Code provides, in relevant part, that a debtors "with the court's approval, may employ or authorize the employment of a professional person under section 327...on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed percentage or fee basis, or on a contingent fee basis." 11 U.S.C. § 328(a). Section 330 of the Bankruptcy Code permits the Court to "award to a trustee... or a professional person employed under section 327...(A) reasonable compensation for actual, necessary services rendered [by such party]... and (B) reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1).

As further described in the materials attached to their affidavits, BKRES² and Listing Agent have extensive experience obtaining the consent and agreement of mortgage lenders and

² BKRES is the broker affiliate of BK Global (<http://www.bkginc.com/>).

servicers to the sale of their collateral and resolution of any resulting unsecured claims in order to produce a recovery for estates from over-encumbered assets in which the estate has no equity.

The Trustee believes that the highest and best value for the Property will be generated through a sale in which the Property is widely marketed to the public and offered at the highest price that the market will bear. The Trustee further believes that such a sale is in the best interest of the Debtors' estate, but can only be achieved if Secured Creditor's Consent is first obtained. That is why the Trustee believes that retaining BKRES and Listing Agent to obtain Secured Creditor's Consent is in the best interests of the Debtors' estate.

In no event will the estate have any obligation to pay BKRES or Listing Agent. The terms of the BKRES Agreement and Listing Agreement provide that BKRES and Listing Agent are only entitled to payment if and when (a) Secured Creditor grants its Consent, (b) the Motion to Approve Sale is granted and (c) the Property is sold, in which event BKRES and Listing Agent will receive and share a 6% real estate brokerage commission at closing in accordance with the order approving the sale.

BKRES and Listing Agent will not be entitled to any fees if Secured Creditor does not grant its Consent or the Court does not grant the Motion to Approve Sale.

The Trustee submits that the terms of employment and compensation as set out in the BKRES Agreement and Listing Agreement are reasonable in light of the extensive experience of BKRES and Listing Agent and the nature of the services they provide.

BKRES attested that it is a disinterested person within the meaning of Section 101(14) of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure 2014 and 2016(a). Attached hereto is an Affidavit of Disinterestedness of BKRES. BKRES also attests, pursuant to

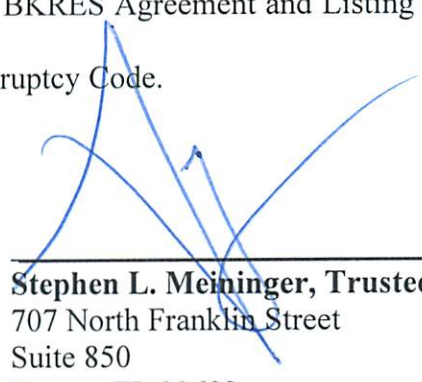
Bankruptcy Rule 2016, that it shall not split or share its fee with any individual or entity other than Listing Agent.

Listing Agent attested that it is a disinterested person within the meaning of Section 101(14) of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure 2014 and 2016(a). Attached hereto is an Affidavit of Disinterestedness of Listing Agent. Listing Agent also attests, pursuant to Bankruptcy Rule 2016, that it shall not split or share its fee with any individual or entity other than BKRES.

CONCLUSION

For the foregoing and all other necessary and proper purposes, the Trustee seeks the Court's authority to retain BKRES and Listing Agent in this case, and requests that the Court approve the compensation arrangements set forth in the BKRES Agreement and Listing Agreement pursuant to Sections 327, 328(a) and 330 of the Bankruptcy Code.

DATED: October 9, 2019



Stephen L. Meininger, Trustee
707 North Franklin Street
Suite 850
Tampa, FL 33602
(813) 301-1025

CERTIFICATE OF SERVICE

I certify that on October 9, 2019, a true and correct copy of the foregoing was provided by U.S. mail and/or electronic delivery to:

U.S. Trustee, 501 E. Polk St., #1200, Tampa, FL 33602
BK Global, 1095 Broken Sound Pkwy., Suite 100 Boca Raton, FL 33487
Keller Williams Realty Eastern Panhandle, 105 Tavern Rd Suite 1, Martinsburg, WV 25401



Stephen L. Meininger, Trustee

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

In re:

Chapter 7

Case No. **19-06613**

Debtor.

Raymond Yosuiico

Isabella Yosuiico,

**DECLARATION OF PATRICK BUTLER IN SUPPORT OF APPLICATION
TO RETAIN BK GLOBAL REAL ESTATE SERVICES AND KELLER WILLIAMS REALTY
EASTERN PANHANDLE TO PROCURE CONSENTED PUBLIC SALE PURSUANT TO
11 U.S.C. § 327, 328 AND 330**

The undersigned, Patrick Butler ("Declarant") hereby states:

1. I am employed by BK Global Real Estate Services ("Applicant" or "BKRES"), which is an entity duly licensed as a real estate brokerage by the State of Florida located at 1095 Broken Sound Pkwy., Suite 100 Boca Raton, FL 33487. I am Applicant's broker-in-charge and am authorized by Applicant to submit this Declaration on Applicant's behalf in support of the annexed Application to Retain BKRES and in accordance with Bankruptcy Rule 2014.

2. Based upon the information discussed below, I believe that Applicant is a disinterested person and does not hold or represent any interest adverse to the interest of the Debtor's estate as that term is defined in Section 101(14) of the Bankruptcy Code. To the best of my knowledge: (a) neither BKRES nor any of its employees has any connection with the Debtors, their creditors in this case, the Chapter 7 Trustee, the Office of the United States Trustee, or any employees thereof or any party in interest herein; (b) BKRES and each of its employees are "disinterested persons," as that term is defined in

Section 101(14) of the Bankruptcy Code; and (c) neither BKRES nor any of its employees hold or represent an interest adverse to the Debtor's estate.

3. That I have read the application of the Trustee regarding the retention and compensation of BKRES and agreed to be bound by the terms and conditions represented therein.

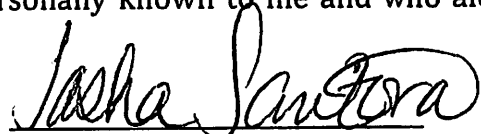
4. That I further understand that the Court, in its discretion, may alter the terms and conditions of employment and compensation, as fully set forth in the BKRES Agreement that is attached as Schedule 2 hereto, as it deems appropriate.

Verified under penalty of perjury that the foregoing is true and correct this 23rd day of September, 2019.



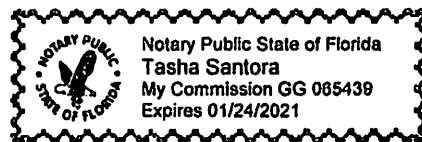
Patrick Butler
Corporate Broker

The foregoing instrument was acknowledged before me this 23rd day of September, 2019, by Patrick Butler who provided identification or is personally known to me and who aid take an oath.



Notary Public-State of Florida

My commission expires



**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA**

**Case No. 19-06613
Chapter 7**

In re:

**Raymond Yosuco
Isabella Yosuco,**

Debtor. /

**AFFIDAVIT OF NATALIE HOFFMANN SUPPORT OF APPLICATION
TO RETAIN BK GLOBAL REAL ESTATE SERVICES AND KELLER WILLIAMS REALTY
EASTERN PANHANDLE TO PROCURE CONSENTED PUBLIC SALE PURSUANT
TO 11 U.S.C. § 327, 328 AND 330**

STATE OF WEST VIRGINIA)
)
COUNTY OF Berkely)

Natalie Hoffmann, being duly sworn, says:

1. I am a real estate agent duly licensed by the State of West Virginia.
2. I am an agent of Keller Williams Realty Eastern Panhandle with the offices located at 105 Tavern Rd Ste 101 Martinsburg WV 25401 ("Listing Agent").
3. I am familiar with the Application to Retain Keller Williams Realty Eastern Panhandle filed by the Trustee ("Application") and the property described therein.
4. I believe that I am experienced and qualified to represent the Trustee in connection with the marketing and sale of the real property located at 1236 Pious Ridge Rd Berkeley Springs, WV 25411 (the "Property").
5. Keller Williams Realty Eastern Panhandle has agreed to accept employment pursuant to the terms and conditions set forth in the Application and the proposed commission structure. Based upon my experience and knowledge of the real estate market, I believe that the commission structure proposed to be paid to Listing Agent does not exceed customary commissions in the applicable geographical area and are reasonable for the type of employment proposed.
6. Neither I nor any member of Listing Agent hold or represent any interest adverse to the estate with respect to the matters for which we are to be employed and we are disinterested persons within the meaning of 11 U.S.C. § 101(14), as required by § 327(a).

7. To the best of my information and belief, neither I nor the other members of this firm have any connection with the Debtors, their creditors, or any other party in interest or their respective attorneys or accountants, the U. S. Trustee, or any person employed in the office of the U.S. Trustee, as required by Rule 2014 of the Federal Rules of Bankruptcy procedure except as set forth below:

8. I represent no interest adverse to the Debtor or its estate in the matters upon which I am to be engaged.

FURTHER AFFIANT SAYETH NAUGHT.

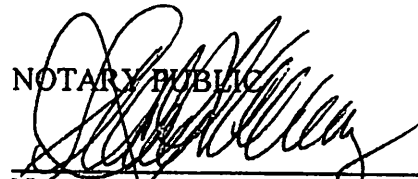


NATALIE HOFFMANN of
KELLER WILLIAMS REALTY
EASTERN PANHANDLE

The foregoing instrument was sworn to and subscribed before me this 25 day of September, 2019.



NOTARY PUBLIC



Notary Public, State of ~~Florida~~ West
Berkeley County Virginia

Stacy Lawing
Type, Stamp, or Print Name as
Commissioned

Expires Aug. 31, 2023